

REMARKS

Claims 1-6 and 8-10 are pending. Claim 10 is withdrawn from consideration as being drawn to a non-elected invention. By this Amendment, the specification is amended; claims 7 and 11 are canceled without prejudice or disclaimer; and claims 1 and 10 are amended. Reconsideration in view of the above amendments and following remarks is respectfully requested.

It is respectfully submitted that the criteria for a proper restriction between patentably distinct inventions set forth in MPEP § 803 has not been satisfied. In particular, it is respectfully submitted that the search and examination of the entire application can be made without a serious burden. For example, each of claims 1 and 9 (of Group I) recite fitting said trim amount data as said function of time with a log relationship of the form  $x = L \ln(t) + L \ln(C/L)$ , wherein  $x$  represents trim amount data,  $t$  represents time, and  $L$  and  $C$  are constants for said process recipe. Claim 10 (of Group II) recites a relationship between trim amount and exposure time, wherein the relationship includes a log relationship of the form  $x = L \ln(t) + L \ln(C/L)$ , wherein  $x$  represents trim amount data,  $t$  represents time, and  $L$  and  $C$  are constants for said process recipe.

It is respectfully submitted that regardless of which group Applicants elect, the search and examination of the entire application requires the search and examination of a log relationship of the form  $x = L \ln(t) + L \ln(C/L)$ , wherein  $x$  represents trim amount data,  $t$  represents time, and  $L$  and  $C$  are constants for said process recipe. Accordingly, it is respectfully submitted that the search and examination of the subject matter of Group I sufficiently overlaps the search and examination of the subject matter of Group II such that the entire application can be searched and examined without a serious burden.

Reconsideration and withdrawal of the restriction requirement are respectfully requested.

Claims 1-6 were rejected under 35 U.S.C. § 102(e) over Tomoyasu et al. (U.S. Patent Application Publication 2004/0185583 A1) and claims 7-9 were rejected under 35 U.S.C. § 103(a) over Tomoyasu et al. The rejections are respectfully traversed.

MPEP § 2143 states: "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a

reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.”

It is further respectfully noted that MPEP § 2143.01 III states: “The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.” (Underlining emphasis in original.) MPEP § 2143.01 III further states: “Although a prior art device ‘may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so.’”

With respect to claim 7, which has been incorporated into claim 1, it is respectfully submitted that the Examiner has not provided any suggestion or motivation for the conclusion that “it would have been obvious to apply commonly used curve fitting techniques and statistical tools (such as log relationship or exponential relationship as instantly claimed) to determine the relationship between trim time and trim amount.” It is further respectfully submitted that the Examiner’s determination that it would have been obvious to modify the method of Tomoyasu et al. to include the claimed relationship is nothing more than a conclusion that the system and/or method of Tomoyasu et al. “could be” modified to result in the claimed invention. It is respectfully submitted that the standard of obviousness is that one of ordinary skill in the art “would have” modified the prior art.

As Tomoyasu et al. do not disclose or suggest all the claim limitations, and as there is no suggestion or motivation by Tomoyasu et al., or in the knowledge generally available to one of ordinary skill in the art, to modify the reference, the rejection fails to present a *prima facie* case of obviousness.

Claims 2-6 and 8 recite additional features of the invention and are allowable for the reasons discussed above with respect to claim 1, and for the additional features recited therein.

Claims 9 and 10 also recite that the relationship includes a log relationship of the form  $x = L \ln(t) + L \ln(C/L)$ , wherein x represents trim amount data, t represents time, and L and C are constants for said process recipe. Claims 9 and 10 are thus also not obvious from Tomoyasu et al.

Reconsideration and withdrawal of the rejections over Tomoyasu et al. are respectfully requested.

Claims 1 and 4-9 were rejected under 35 U.S.C. § 103(a) over Natze et al. (U.S. Patent Application Publication 2004/0097047 A1) and claims 2 and 3 were rejected under 35

U.S.C. § 103(a) over Natzle et al. in view of Doris et al. (U.S. Patent Application Publication 2004/0241981 A1). The rejections are respectfully traversed.

It is respectfully submitted that the Examiner's determination that it would have been obvious, after gathering information, to "tabulate/extrapolate/manipulate data and perform calculation using common statistical methods" fails to establish a *prima facie* case of obviousness because there is no suggestion or motivation by Natzle et al., or in the knowledge generally available to one of ordinary skill in the art, to perform such information gathering and calculations, and even assuming there was, which Applicants do not concede, such modifications would not have resulted in the relationship recited in claims 1, 9 and 10.

Claims 2-6 and 8 recite additional features of the invention and are allowable for the same reasons discussed above with respect to claim 1 and for the additional features recited therein. It is further respectfully submitted that Doris et al. fail to cure the deficiencies of Natzle et al. with respect to claim 1 and that even assuming it would have been obvious to combine the references, which Applicants do not concede, such a combination would not include all the claim limitations and would not present a *prima facie* case of obviousness.

Reconsideration and withdrawal of the rejections over Natzle et al. and Natzle in view of Doris et al. are respectfully requested.

In view of the above amendments and remarks, Applicants respectfully submit that all the claims are allowable and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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Date: May 10, 2006

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